

### **REMARKS**

The office action of February 23, 2006, has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested.

Claim 39 has been amended. Support for the amendment may be found at least on page 30, line 7, through page 31, line 10. No new matter has been entered. The amendment to claim 39 has been made to clarify its language, not to narrow its scope. Claim 39 has not been narrowed to overcome the rejection over Roohparvar. Rather, the claim has been clarified to more clearly point out the distinction over Roohparvar that was present in unamended claim 39.

Claims 3-7, 15-19, 25-36, and 51-55 stand rejected as double patenting of claims 1-8 and 10-14 of U.S. Patent No. 6,611,938. Applicants traverse.

The Examiner in U.S. Serial No. 09/604,692 (which issued as U.S. Patent No. 6,611,938) mailed a restriction requirement on February 13, 2003. Applicants elected Group I and withdrew the non-elected claims.

This present application (U.S. Serial No. 10/601,636) is a divisional of U.S. 09/604,692. This application was filed in response to the Restriction Requirement. The Examiner cannot now reject the current claims as double patenting over the claims of US Patent 6,611,938.

See 35 U.S.C. 121 Divisional Applications:

“... A patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such a requirement, **shall not** be used as a reference either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issued on either of them, if the divisional application is filed before the issuance of the patent on the other application ...”.

MPEP Section 804 (II):

“... Generally, a double patenting rejection **is not permitted** where the claimed subject matter is presented in a divisional application as a result of a restriction requirement made in a parent application under 35 U.S.C. 121.”

Applicants request the Examiner withdraw the rejection. A double patenting rejection is not appropriate in a divisional application based on a double patenting rejection in a parent application

Claims 39-41 stand rejected under 35 U.S.C. 102(e) as being anticipated by Roohparvar. Applicants traverse.

Claim 39, as amended, recites:

“ a data buffer, which outputs a uncorrected read data read from said memory sector to an external device;  
an error correcting circuit that receives said uncorrected read data from said memory sector, said error correcting circuit correcting at least some of said uncorrected read data when an error has been detected in said uncorrected read data and outputting corrected read data to said data buffer,  
wherein, when said data buffer receives corrected read data from said error correcting circuit, said data buffer outputs said corrected read data to said external device.”

Applicants have amended claim 39 to clarify its language. In particular, claim 39 now more clearly recites that the data buffer outputs uncorrected read data to an external device, the error correcting circuit transmits corrected data to the data buffer when an error has been detected, and the data buffer then sends the corrected data to the external device. In contrast, Roohparvar discloses a traditional error checking circuit in a flash memory. There is no

Application No.: 10/601,636  
Amendment dated June 13, 2006  
Reply to Office Action of February 23, 2006

transmission of uncorrected data followed by transmission of corrected data to an external device. Claim 39 is allowable over Roohparvar.

Dependent claims 40 and 41 are allowable for at least this reason.

The Commissioner is authorized to debit our deposit account no. 19-0733 in the appropriate amount for a one month extension of time and any other required fees.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated: June 13, 2006

By: /Christopher R. Glembocki/  
Christopher R. Glembocki  
Reg. No. 38,800

1001 G Street, N.W.  
Washington, D.C. 20001-4597  
Tel: (202) 824-3000  
Fax: (202) 824-3001